

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

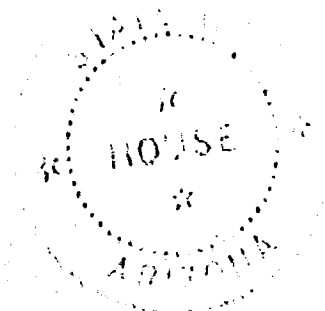
CHAPTER 128

# HOUSE BILL 2362

AN ACT

AMENDING SECTIONS 41-1554, 41-1554.02, 41-1554.04, 41-1554.05 AND 41-1554.06,  
ARIZONA REVISED STATUTES; RELATING TO THE GREATER ARIZONA DEVELOPMENT  
AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1554, Arizona Revised Statutes, is amended to  
3 read:

4 41-1554. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Authority" means the greater Arizona development authority.

7 2. "Board" means the board of directors of the authority.

8 3. "Financial assistance" means assistance provided by the authority  
9 to eligible political subdivisions, special districts and Indian tribes  
10 pursuant to section 41-1554.06.

11 4. "Fund" means the greater Arizona development authority revolving  
12 fund established by section 41-1554.03.

13 5. "Indian tribe" means any Indian tribe, band, group or community  
14 that is recognized by the United States secretary of the interior and that  
15 exercises governmental authority within the limits of any Indian reservation  
16 under the jurisdiction of the United States government, notwithstanding the  
17 issuance of any patent and including rights-of-way running through the  
18 reservation.

19 6. "Infrastructure" means any facility located in this state for  
20 public use and owned by a political subdivision, special district or Indian  
21 tribe that retains ultimate responsibility for its operation and maintenance.

22 7. "Loan" means bonds, leases, loans or other evidences of  
23 indebtedness.

24 8. "Loan repayment agreement" means an agreement to repay a loan  
25 entered into by a political subdivision, special district or Indian tribe.

26 9. "Pledged revenues" means any monies to be received by a political  
27 subdivision, including property taxes, other local taxes, fees, assessments  
28 or charges pledged by a political subdivision as a source for repayment of  
29 a loan repayment agreement.

30 10. "Political subdivision" means a county, city or town.

31 11. "SHORT-TERM ASSISTANCE" MEANS ASSISTANCE PROVIDED BY THE AUTHORITY  
32 TO POLITICAL SUBDIVISIONS, SPECIAL DISTRICTS AND INDIAN TRIBES IN CONNECTION  
33 WITH THE FINANCING OF INFRASTRUCTURE.

34 ~~11.~~ 12. "Special district" means any of the following entities  
35 established pursuant to title 48:

36 (a) Municipal improvement district.

37 (b) Fire district.

38 (c) County improvement district.

39 (d) Special road district.

40 (e) Sanitary district.

41 (f) Drainage or flood protection district.

42 (g) County flood control district.

43 (h) County jail district.

44 (i) Regional public transportation authority.

45 (j) Regional transportation authority.

1       ~~12.~~ 13. "Technical assistance" means assistance provided pursuant to  
2 section 41-1554.05.

3       ~~13.~~ 14. "Technical assistance repayment agreement" means an agreement  
4 to repay assistance provided pursuant to section 41-1554.05.

5       ~~14.~~ 15. "Tribal subdivision" means any chapter, district or village  
6 that is recognized by an Indian tribe by resolution or through tribal  
7 constitution and that receives technical assistance.

8       Sec. 2. Section 41-1554.02, Arizona Revised Statutes, is amended to  
9 read:

10       41-1554.02. Powers and duties of authority

11       A. The authority is a body corporate and politic and shall have an  
12 official seal that is judicially noticed. The authority may sue and be sued,  
13 contract and acquire, hold, operate and dispose of property as necessary to  
14 carry out its responsibilities under this article.

15       B. The authority, through its board, may:

16       1. Issue bonds to provide financial assistance to political  
17 subdivisions, special districts and Indian tribes for constructing or  
18 improving infrastructure or for refinancing outstanding bonds or other  
19 obligations of the political subdivisions, special districts or Indian tribes  
20 that were issued to construct or improve infrastructure. The bonds shall be  
21 in the name of the authority.

22       2. Provide financial assistance to political subdivisions, special  
23 districts and Indian tribes to finance or refinance infrastructure projects.

24       3. Guarantee debt obligations of political subdivisions, special  
25 districts and Indian tribes that are issued to finance or refinance  
26 infrastructure projects.

27       4. Provide technical assistance OR SHORT-TERM ASSISTANCE to political  
28 subdivisions, special districts, Indian tribes and tribal subdivisions  
29 through staff or other professional assistance.

30       5. Apply for, accept and administer grants and other financial  
31 assistance from the United States government and from other public and  
32 private sources to carry out its responsibilities under this article.

33       6. Hire professional assistance as needed to carry out the provisions  
34 of this article.

35       C. The board shall:

36       1. Approve all policies and procedures of the authority.

37       2. Approve which projects receive technical and financial assistance.

38       3. Approve loan repayment agreements entered into with political  
39 subdivisions, special districts and Indian tribes.

40       D. The authority may impose administrative fees and penalties that  
41 are necessary to recover the costs incurred in connection with entering into  
42 or enforcing a loan repayment agreement or providing financial or technical  
43 assistance.

44       E. The board shall deposit, pursuant to sections 35-146 and 35-147,  
45 any monies received pursuant to subsection B, paragraph 5 in the fund.

1       Sec. 3. Section 41-1554.04, Arizona Revised Statutes, is amended to  
2 read:

3       41-1554.04. Project application and prioritization

4       A. The authority shall:

5       1. Establish an application form for technical and financial  
6 assistance.

7       2. Establish a procedure to review and approve or disapprove on its  
8 merits each administratively complete application for technical and financial  
9 assistance ~~on an annual or semiannual basis.~~

10       3. Establish by rule criteria by which technical and financial  
11 assistance will be awarded. For financial assistance the criteria shall  
12 include a determination of the ability of the applicant to repay a loan  
13 according to its terms and other conditions established by this article.

14       4. Adopt rules to prioritize applications for technical and financial  
15 assistance.

16       5. Inform the applicant of the board's determination within ninety  
17 days after the application date established by the authority pursuant to  
18 paragraph 2 of this subsection.

19       B. The board shall:

20       1. Approve or disapprove applications for financial and technical  
21 assistance.

22       2. Determine the order and priority of projects assisted under this  
23 article based on the merits of the applications.

24       C. If the application is approved, the board may condition the  
25 approval on assurances the board deems necessary to ensure that the technical  
26 assistance or financial assistance will be used according to law and the  
27 terms of the application. The loan repayment agreement shall include any  
28 conditions concerning financial assistance deemed necessary by the board.

29       D. The authority shall only make financial assistance OR SHORT-TERM  
30 ASSISTANCE available when projects are ready for construction and the  
31 applicant is ready to proceed or, if the financial assistance is for  
32 refinancing outstanding bonds or other obligations, when the outstanding  
33 bonds or other obligations are to be refunded. The authority may provide  
34 technical assistance on an as needed basis. The authority may charge the  
35 applicant fees sufficient to cover the authority's costs related to the  
36 project.

37       E. A political subdivision, a special district or an Indian tribe may  
38 apply to the authority for financial assistance and may accept assistance in  
39 connection with an infrastructure project owned by the political subdivision,  
40 special district or Indian tribe. The existence of a current investment  
41 grade rating on existing debt of the applicant that is secured by the same  
42 revenues to be pledged to secure repayment under the loan repayment agreement  
43 may be accepted by the board as evidence regarding the ability of the  
44 applicant to repay a loan.

1 F. The authority shall only make financial assistance available upon  
2 a determination of the ability of the applicant to repay the financial  
3 assistance according to its terms and conditions.

4 G. Applications for financial assistance shall:

5 1. Be solicited annually, or semiannually, QUARTERLY OR MONTHLY as  
6 determined by the authority pursuant to subsection A, paragraph 2.

7 2. Be administratively complete before being reviewed by the  
8 authority.

9 3. Include documentation concerning the ability of the applicant to  
10 repay the financial assistance according to its terms and conditions.

11 4. Include a resolution from the governing body of the political  
12 subdivision, special district or Indian tribe that the project is in the best  
13 interests of the residents.

14 H. Applications for technical assistance shall:

15 1. Be solicited annually or semiannually as determined by the  
16 authority pursuant to subsection A, paragraph 2, EXCEPT THAT AN APPLICATION  
17 FOR SHORT-TERM ASSISTANCE MAY BE SOLICITED AT THOSE TIMES AS THE AUTHORITY  
18 DETERMINES.

19 2. Be administratively complete before being reviewed by the  
20 authority.

21 3. Include a resolution from the governing body of the political  
22 subdivision, special district or Indian tribe that the project is in the best  
23 interests of the residents.

24 Sec. 4. Section 41-1554.05, Arizona Revised Statutes, is amended to  
25 read:

26 41-1554.05. Technical assistance; repayment agreements

27 A. The authority may provide technical assistance to political  
28 subdivisions, special districts, Indian tribes and tribal subdivisions in  
29 connection with the development or financing of infrastructure.

30 B. Technical assistance may include the following:

31 1. Assistance in selecting outside consultants.

32 2. Evaluation of design and construction options.

33 3. Financial advisory services.

34 4. Assistance in satisfying statutory requirements.

35 5. SHORT-TERM ASSISTANCE.

36 C. Assistance provided under a technical assistance repayment  
37 agreement:

38 1. Shall not be more than two hundred fifty thousand dollars for a  
39 single project.

40 2. Shall be repaid not more than three years after the date the monies  
41 for the assistance are advanced to the applicant.

42 3. Shall be in a form and under terms determined by the authority.

43 D. SHORT-TERM ASSISTANCE REPRESENTS AN ADVANCE OF FINANCIAL  
44 ASSISTANCE. THE AUTHORITY SHALL NOT PROVIDE SHORT-TERM ASSISTANCE UNLESS THE  
45 POLITICAL SUBDIVISION, SPECIAL DISTRICT OR INDIAN TRIBE HAS AN APPROVED

1 FINANCIAL ASSISTANCE APPLICATION ON FILE WITH THE AUTHORITY. A POLITICAL  
2 SUBDIVISION, SPECIAL DISTRICT OR INDIAN TRIBE SHALL REPAY SHORT-TERM  
3 ASSISTANCE PURSUANT TO A TECHNICAL ASSISTANCE REPAYMENT AGREEMENT.

4 ~~D.~~ E. The authority shall establish an application process and method  
5 of determining the allocation of technical assistance pursuant to section  
6 41-1554.04.

7 ~~E.~~ F. Before technical assistance may be provided, the board shall  
8 approve the application for technical assistance.

9 ~~F.~~ G. The provision of technical assistance by the authority does not  
10 create any liability for the authority or this state regarding the design,  
11 construction or operation of any infrastructure project.

12 Sec. 5. Section 41-1554.06, Arizona Revised Statutes, is amended to  
13 read:

14 41-1554.06. Financial assistance

15 A. The authority may provide financial assistance to political  
16 subdivisions, special districts and Indian tribes in developing, constructing  
17 or refinancing infrastructure. The financial assistance shall include:

18 1. Loans as provided in this section.

19 2. Credit enhancements purchased for a political subdivision's,  
20 special district's or Indian tribe's bonds or other forms of indebtedness.

21 B. A loan shall be evidenced by a loan repayment agreement or bonds  
22 of a political subdivision, special district or Indian tribe that are  
23 delivered to and held by the authority.

24 C. The authority shall prescribe a principal repayment schedule for  
25 each loan made. Loan principal payments may be rescheduled at the discretion  
26 of the authority but may not be forgiven.

27 D. A loan under this section:

28 1. Shall be repaid not more than thirty years after the date it is  
29 incurred.

30 2. Shall require that interest payments begin not later than the next  
31 date that either principal or interest must be paid by the authority to  
32 holders of any of the authority's bonds that provided funding for the loan.  
33 The authority may provide that loan interest accruing during construction of  
34 the borrower's infrastructure project and up to one year after completion of  
35 the construction be capitalized in the loan.

36 3. Shall be repayable in at least annual principal installments and  
37 at least semiannual interest installments.

38 4. Shall be conditioned on the identification of pledged revenues for  
39 repaying the loan. If the infrastructure financed by the loan is part of a  
40 municipal utility and the city or town pledges revenues of the utility to  
41 repay the loan, the loan shall be treated under section 9-530, subsection B  
42 as a lawful long-term obligation incurred for a specific capital purpose.

43 5. To the extent permitted by law, shall be secured by a debt service  
44 reserve account that is held in trust and that is in such amount, if any, as  
45 determined by the authority.

6. Shall be either:

(a) For a political subdivision, additionally secured by an irrevocable pledge of the shared state revenues due the political subdivision for the life of the loan as provided by a resolution of the board.

(b) For an Indian tribe, conditioned on the establishment of a dedicated revenue source under the control of a tribally chartered corporation or other tribal entity that is subject to suit by the attorney general to enforce the loan contract or be secured by assets that, in the event of default of the loan contract, are subject to execution by the attorney general without the waiver of any claim of sovereign immunity by the tribe.

E. The authority shall prescribe the rate or rates of interest on loans made under this section, but the rate or rates shall not exceed the prevailing market rate for similar types of loans. A political subdivision may negotiate the sale of its bonds to or a loan repayment agreement with the authority without complying with any public or accelerated bidding requirements imposed by any other law for the sale of its bonds.

F. The approval of a loan is conditioned on a written commitment by the political subdivision or special district to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

G. The approval of financial assistance to a political subdivision CITY OR TOWN HAVING A POPULATION OF MORE THAN FIFTY THOUSAND PERSONS shall be conditioned upon approval of its voters. No AN election shall be IS NOT required if voter approval has previously been received for substantially the same project with a different financing source.

H. THE APPROVAL OF FINANCIAL ASSISTANCE TO A COUNTY HAVING A POPULATION OF MORE THAN TWO HUNDRED THOUSAND PERSONS BUT LESS THAN ONE MILLION PERSONS SHALL BE CONDITIONED ON APPROVAL OF ITS VOTERS. AN ELECTION IS NOT REQUIRED IF VOTER APPROVAL HAS PREVIOUSLY BEEN RECEIVED FOR SUBSTANTIALLY THE SAME PROJECT WITH A DIFFERENT FINANCING SOURCE.

~~H.~~ I. By resolution of the board, the authority may impose any additional requirements it considers necessary to ensure that the loan principal and interest are timely paid.

~~I.~~ J. All monies received from political subdivisions, special districts and Indian tribes as loan repayments, interest and penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the fund.

~~J.~~ K. The attorney general may take whatever actions are necessary to enforce the loan contract and achieve repayment of loans provided by the authority pursuant to this article.

~~K.~~ L. If a political subdivision fails to make any payment due to the authority under its loan repayment agreement or bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting political subdivision that the political subdivision has failed to make the required payment and direct a withholding of state shared revenues as provided in subsection ~~L~~ M of this section. The certificate of

1 default shall be in the form determined by the authority, provided the  
2 certificate specifies the amount required to satisfy the unpaid payment  
3 obligation of the political subdivision.

4       t. M. On receipt of a certificate of default from the authority, the  
5 state treasurer, to the extent not otherwise expressly prohibited by law,  
6 shall withhold the monies from the next succeeding distribution of monies  
7 pursuant to section 42-5029 due to the defaulting political subdivision. In  
8 the case of a city or town, the state treasurer shall also withhold from the  
9 next succeeding distribution of monies pursuant to section 43-206 due to the  
10 defaulting city or town the amount specified in the certificate of default  
11 and immediately deposit the amount withheld in the fund. The state treasurer  
12 shall continue to withhold and deposit the monies until the authority  
13 certifies to the state treasurer that the default has been cured. In no  
14 event shall the state treasurer withhold any amount that is necessary, as  
15 certified by the defaulting political subdivision to the state treasurer and  
16 the authority, to make any required deposits then due for the payment of  
17 principal and interest on bonds of the political subdivision that were issued  
18 prior to the date of the loan repayment agreement or bonds and that have been  
19 secured by a pledge of distributions made pursuant to sections 42-5029 and  
20 43-206.

~~APPROVED BY THE GOVERNOR MAY 1, 2002.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2002.~~



Passed the House April 8, 2002,

by the following vote: 50 Ayes,

0 Nays, 10 Not Voting

[Signature]  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate April 25, 2002

by the following vote: 21 Ayes,

6 Nays, 3 Not Voting

[Signature]  
President of the Senate

Charmine Bellinger  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2002

at 3:23 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 1 day of

May, 2002

at 3:05 o'clock P M.

[Signature]  
Governor of Arizona

H.B. 2362

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2nd day of May, 2002

at 4:23 o'clock P M.

[Signature]  
Secretary of State